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# REPORT AND RECOMMENDATIONS

## JOINT INTERIM LEGISLATIVE POWER PLAN STUDY COMMITTEE

1984

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REPORT TO THE FORTY-NINTH LEGISLATURE

JOINT INTERIM LEGISLATIVE  
POWER PLAN STUDY COMMITTEE

January 1985



JOINT INTERIM LEGISLATIVE  
POWER PLAN STUDY COMMITTEE

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Sen. Delwyn Gage, Vice-Chairman

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Power Planning Council

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Morris Brusett  
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## CONCLUSIONS AND RECOMMENDATIONS

The following Resolutions are submitted to the Forty-Ninth Legislature by the Joint Interim Legislative Power Plan Study Committee.

### RESOLUTION NO. ONE

WHEREAS, the 48th Montana Legislature charged this Committee to review the Northwest Conservation and Electric Power Plan and existing Montana law and to submit to the 49th Legislature a report of our findings, together with our recommendations for legislation, if any, necessary and desirable to implement the Plan in the State of Montana; and

WHEREAS, after a general review of the Plan, the work of this Committee has concentrated in two areas: the Model Conservation Standards for new buildings and the option process for acquisition of new electricity resources; and

WHEREAS, energy conservation is well accepted in Montana as being the least expensive and most cost-effective method of acquiring new energy sources; and

WHEREAS, energy conservation in new buildings which is cost-effective to the region and economically feasible to the new building owner should be pursued even in a period of energy surplus because the buildings will outlast the surplus period; and

WHEREAS, State government combines the requisite responsibility and authority to be fully accountable for energy conservation goals; and

WHEREAS, the Model Conservation Standards of the Northwest Conservation and Electric Power Plan can be a critical factor in preserving inexpensive federal power for Western Montana and for providing an orderly, secure, and least-costly energy future for all Montanans; and

WHEREAS, the Northwest Conservation and Electric Power Plan Model Conservation Standards appear to be both technically feasible and cost-effective for the applicable Montana home-buying public; and



and enforcing the Model Conservation Standards in that portion of Montana which is included in the BPA service territory.

NOW, THEREFORE, BE IT RESOLVED BY THE INTERIM LEGISLATIVE POWER PLAN STUDY COMMITTEE:

(1) That adoption of a specific building code for the State of Montana remain a rule-making function of the Department of Administration pursuant to the requirements of Chapter 60 of the MCA; and

(2) That the Department of Administration review and upgrade the energy provisions of the State Building Code pursuant to Chapter 60 of the MCA and should specifically consider the incorporation in the Code of the Model Conservation Standards set forth in the Northwest Conservation and Electric Power Plan for at least that portion of Montana including the Bonneville Power Administration Service territory; and

(3) That State government continue to make every effort to encourage the BPA to reimburse state and local governments for the full incremental costs of adopting and enforcing the Model Conservation Standards as provided in the Northwest Conservation and Electric Power Plan; and

(4) That the 49th Session of the Montana Legislature amend 50-60-102 of the MCA so that the State Building Code once again applies to residential buildings containing less than five dwelling units or their attached-to structures; and

(5) That the 49th Session of the Montana Legislature provide in the budget of the Department of Administration adequate staff and funds, supported by building code fees and not the State General Fund, to include residential buildings containing less than five dwelling units or their attached-to structures within the jurisdiction of the State Building Code; and

(6) That the 49th Session of the Montana Legislature make available to the remainder of Montana conservation programs initiated by Bonneville Power Administration pursuant to the Northwest Conservation and Electric Power Plan in its service territory in Western Montana to support and facilitate adoption of the Model Conservation Standards statewide.

(7) That the U.S. Department of Housing and Urban Development revise the requirements for the construction of mobile homes and manufactured homes under its jurisdiction to include energy efficiency levels commensurate with the Model Conservation Standards.

RESOLUTION NO. TWO

WHEREAS, inaccurate electricity demand forecasts have led to premature and wasted investments of billions of dollars in new electricity generating resources in the Pacific Northwest; and

WHEREAS, the complexities involved in forecasting electricity demand render forecasts incapable of scheduling new, large, long lead-time generating resources accurately enough to protect against very expensive underbuilding or overbuilding; and

WHEREAS, forecasting error can be significantly reduced by shortening the period over which the forecast is made; and

WHEREAS, one method to reduce the forecast period by about fifty percent is to option or bank new electricity generating resources by siting, designing, and licensing them ahead of need; and

WHEREAS, the people of Montana should remain in firm control of the siting of energy generating facilities within Montana through the Major Facility Siting Act and the Board of Natural Resources and Conservation; and

WHEREAS, the Major Facility Siting Act presently does not authorize optioning generating resources by banking them ahead of need.

NOW, THEREFORE, BE IT RESOLVED BY THE INTERIM LEGISLATIVE POWER PLAN STUDY COMMITTEE:

(1) That the 49th Session of the Montana Legislature amend the Montana Major Facility Siting Act to provide for:

- a) a maximum term for the life of a Certificate of Environmental Compatibility and Public Need for electricity generating facilities; and

- b) the authority for the Board of Natural Resources and Conservation to condition the issuance of a Certificate of Environmental Compatibility and Public Need for electricity generating resources on future load growth; and
- c) an abbreviated process for renewal of a Certificate of Environmental Compatibility and Public Need for an electricity generating resource.

### RESOLUTION NO. THREE

WHEREAS, the 48th Montana Legislature charged this Committee to review the Northwest Conservation and Electric Power Plan and existing Montana law and to submit to the 49th Legislature a report of our findings, together with our recommendations for legislation, if any, necessary and desirable to implement the Plan in the State of Montana; and

WHEREAS, after a general review of the Plan, the work of this Committee has concentrated on the Model Conservation Standards for new buildings; and

WHEREAS, energy conservation is well accepted in Montana as being the least expensive and most cost-effective method of acquiring new energy sources; and

WHEREAS, energy conservation in new residences which is cost-effective to the region and economically feasible to the new home owner should be pursued; and

WHEREAS, State government combines the requisite responsibility and authority to be fully accountable for energy conservation goals; and

WHEREAS, the Model Conservation Standards of the Northwest Conservation and Electric Power Plan can be a critical factor in preserving inexpensive federal power for Western Montana and for providing an orderly, secure, and least-costly energy future for all Montanans; and

WHEREAS, the Northwest Conservation and Electric Power Plan Model Conservation Standards appear to be both technically feasible and cost-effective for the applicable Montana homebuying public; and



WHEREAS, homes which meet or even exceed the Model Conservation Standards can be built and are being built in Montana at competitive prices; and

WHEREAS, Montana law (MCA, 50-60-201) now provides that the purposes of the State Building Codes include:

" . . . conservation of energy, by design requirements and criteria that will result in the efficient utilization of energy . . . in buildings;

" . . . encourag(ing) efficiencies of design and insulation which enable buildings to be heated in winter with the least possible quantities of energy and to be kept cool in the summer without air conditioning equipment or with the least possible use of such equipment;" and

" . . . encourag(ing) efficiencies and criteria directed towards design of building envelopes with high thermal resistance and low air leakage and toward requiring practices in design and selection of mechanical, electrical, and illumination systems which promote the efficient use of electricity;" and

WHEREAS, many Montanans purchasing mobile and manufactured homes do not benefit from the energy conservation protections afforded by the State Building Code because the State is presently precluded from enforcing the State Code for these buildings.

NOW, THEREFORE, BE IT RESOLVED BY THE INTERIM LEGISLATIVE POWER PLAN STUDY COMMITTEE:

That the U.S. Department of Housing and Urban Development review the requirements for the construction of mobile homes and manufactured homes under its jurisdiction and specifically consider adopting energy efficiency levels commensurate with the Model Conservation Standards.



## INTRODUCTION

In December of 1980 the United States Congress passed the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501). The Act called for the creation of an eight-member Council composed of two members each from the states of Montana, Idaho, Washington and Oregon. The Council members were to be appointed by their Governors and confirmed by their Legislatures.

A primary responsibility assigned to the Council by the U.S. Congress was the development of a twenty-year electrical energy plan that would provide for "all the electricity the region would need at the lowest possible cost."

In Montana, the 47th Legislature, in its passage of HB 641, authorized "AN ACT PROVIDING FOR THE AGREEMENT BY THE STATE OF MONTANA TO FORMATION OF AND PARTICIPATION IN THE PACIFIC NORTHWEST ELECTRIC POWER PLANNING COUNCIL; PROVIDING FOR THE APPOINTMENT OF MEMBERS TO THE COUNCIL AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

The Bill was introduced by Representative Quilici and Senator Dover and was effective upon approval on March 12, 1981.

The Power Planning Council worked for two years on the development of the first Regional Energy Plan. During those two years, the Council rotated its bi-monthly meetings throughout the region, conducting all its business in a public forum and soliciting participation in its deliberations from the public and any potentially affected individuals and organizations. After extensive review and public scrutiny, the Council adopted its first Regional Energy Plan on April 27, 1983.

In Montana, the 48th Legislature passed House Joint Resolution No. 18, calling for the creation of "A COMMITTEE OF LEGISLATORS TO REVIEW THE FINAL POWER PLAN DEVELOPED BY THE PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION PLANNING COUNCIL AND TO MAKE APPROPRIATE RECOMMENDATIONS." The Resolution, introduced by Representatives Quilici, Boylan, Pavlovich, Van Valkenburg, Lory, Daily, Keenan, Spaeth, Hemstad and Iverson, instructs the Committee to "SUBMIT TO THE 49TH LEGISLATURE A REPORT OF ITS FINDINGS, TOGETHER WITH ITS RECOMMENDATIONS FOR LEGISLATION, IF ANY, NECESSARY AND DESIRABLE TO IMPLEMENT THE POWER PLAN IN THE STATE OF MONTANA."

As instructed in the Resolution, the President of the Senate, Stan Stephens, appointed Senators Fuller, Lee, Mohar and Gage, while Speaker of the House Daniel Kemmis appointed Representatives Fagg, Harrington, Kadas and Seifert to serve on the bipartisan Joint Interim Legislative Power Plan Study Committee.

#### COMMITTEE DELIBERATIONS

The Committee held its first meeting on September 27, 1983 in the Office of the Montana Northwest Power Planning Council in Helena. The Committee selected its officers by electing Representative Dan Harrington to serve as its Chairman and Senator Delwyn Gage to serve as Vice-Chairman. During its first few meetings, the Committee was introduced to the Regional Energy Plan and determined that two key elements of the Plan had particularly significant implications for the people in the State of Montana.

The Committee agreed to concentrate its efforts on these elements:

- 1) The Model Conservation Standards
- 2) The Resource Options concept

The Model Conservation Standards proposed in the Regional Plan call for new electrically heated homes being constructed to a higher level of energy efficiency, thereby reducing their consumption of electricity for heat by some 60% and reducing the need for the region to construct and pay for expensive new electric generating plants.

The Resource Options Concept proposed in the Regional Plan increases the flexibility of regional energy planning by authorizing the region to absorb the pre-construction costs of energy resources in exchange for the Council's option to make the determination when actual plant construction should begin.

During the seven meetings conducted by the Committee, the public, individuals and special interest groups were invited and encouraged to participate in the Committee's discussions and decision making. The Committee reviewed the status of Montana's building codes and their enforcement. It also initiated independent studies of the Regional Plan concentrating on both the Model Conservation Standards and the Resource Options

concept, soliciting information and legal opinions before deciding upon a course of action.

#### COMMITTEE ACTIONS

Early in its studies of the Regional Energy Plan, the Committee developed a series of questions which needed to be answered before the members could reach any decisions or make any recommendations on the applicability of the Regional Energy Plan to Montana. To develop answers for these questions, the Committee agreed to retain an independent contractor to objectively evaluate the Plan and the conclusions of the Regional Council. The Committee authorized its Chairman and Vice-Chairman to solicit, interview and select the contractor to fully investigate and analyze the portions of the Regional Plan necessary to address and respond to the following questions:

1) Is there any disagreement that conservation is the most cost-effective source of electricity to meet our growing needs?

2) Why should conservation be promoted when the region has moved from expected scarcity to a surplus of electricity?

3) Should conservation be financed through rates as with generation resources, or through individual customer contributions?

4) Should conservation be obtained through regulation such as building codes, or through market approaches such as higher rates or subsidies?

5) Whose responsibility is it to see that conservation targets are achieved: state or local government, utilities, or homeowners and builders?

6) Are the Plan's Model Conservation Standards the only option to achieving energy savings goals in the new-house construction portion of the residential sector?

7) Why should Montana change its laws to satisfy some regional standard?

8) What resources would be required if the State adopts or allows local governments to adopt the Plan's Model Conservation Standards?

9) What is the possibility of using utility personnel to inspect new homes for energy efficiency and assess a hookup fee based on a sliding scale in accordance with how well the building meets the Model Conservation Standards?

The Committee selected John Orth, of J.C. Orth & Associates of Butte, to provide the independent analysis and to develop answers to the Committee's questions.

Orth and Associates prepared and delivered to the Committee a report responding to the questions and describing various methods of responding to the Regional Plan and the adoption or rejection of the Model Conservation Standards proposed by the Regional Council.

After reviewing and deliberating on the alternatives outlined in the Orth report, the Committee requested a legal review of these choices by the Office of the Legislative Council.

The Committee conducted its final meeting on November 16, 1984 in Helena, and heard a final report from John Orth and Associates summarizing possible decisions and probable results of Committee action relating to the adoption or rejection of the Model Conservation Standards. Valencia Lane of the Legislative Council also reported on the legal aspects of choices outlined in the Orth report.

The Committee also heard a final report from the Department of Natural Resources and Conservation on the Regional Energy Plan's Resource Options concept and its implications to the Major Facility Siting Act.

The Joint Interim Legislative Power Plan Study Committee complied with the charge placed upon them by the 48th Legislature in their adoption of HJR 18 by conducting public meetings and encouraging public participation in their deliberations. The Committee recognized the implications of increasing energy costs and its economic impact on the people of Montana. By sharing differing points of view and exploring available alternatives, the Committee was able to decide upon an acceptable response to Montana's participation in regional electric energy planning in the adoption of its Resolutions.

**HOUSE JOINT RESOLUTION NO. 18**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT A COMMITTEE OF LEGISLATORS BE ASSIGNED TO REVIEW THE FINAL POWER PLAN DEVELOPED BY THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL AND TO MAKE APPROPRIATE RECOMMENDATIONS.

WHEREAS, the development and implementation of a comprehensive electric power program is vital to Montana; and

WHEREAS, the availability and cost of electricity will shape both the future economic and environmental lifestyles of the people of Montana; and

WHEREAS, the Pacific Northwest Electric Power and Conservation Planning Council, referred to herein as the "Council", is required by P.L. 96-501 to develop a 20-year electric power plan for the Pacific Northwest, including that portion of Montana west of the Continental Divide; and

WHEREAS, Montana's appointees to the Council have played an active and significant role in the development of the 20-year power plan; and

WHEREAS, the Council has adopted the goal of planning to provide a supply of electricity adequate to sustain a vigorous and growing economy and a healthy environment at the lowest total cost; and

WHEREAS, the Council has provided the public an unprecedented access to and participation in its decisions; and

WHEREAS, the Council has requested the appointment of a committee of Montana Legislators to review the 20-year plan and has offered to pay the expenses of the committee.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the President of the Senate appoint four members of the Senate and the Speaker of the House appoint four members of the House, on an equally bipartisan basis, to serve on a committee funded by the Council to meet during the interim between legislative sessions.

(2) That the committee meet with Montana's representatives on the Council to review the final power plan and existing state law.

(3) That the committee submit to the 49th Legislature a report of its findings, together with its recommendations for legislation, if any, necessary and desirable to implement the power plan in the State of Montana.







